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OCT 20 2014

WATER RESOURCES
WESTERN REGION

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October 2, 2014

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OCT 06 2014

DEPARTMENT OF
WATER RESOURCES

Gary Spackman
Director
State of Idaho
Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098

Re: Application for Permit No. 63-32499
In the Name of Mayfield Townsite LLC

Dear Director:

The Mayfield Townsite LLC application was filed in 2006. The application was protested by two protestants both of whom Mayfield worked with to resolve their concerns. The application was not protested by Idaho Power Company. Application No. 61-12096 in the name of Nevid LLC was protested by Idaho Power Company. When the IDWR consolidated the various I-84 corridor applications for a hearing to determine sufficiency of the supply of the water for the area, Idaho Power used the proceeding to raise issues as to the location of the trust water boundary. The Director excluded trust water issues from the proceeding. Notwithstanding Idaho Power's raising the issue, the Mayfield application points of diversion and place of use are located outside the trust water area. See attached Figure 11 from SPF Engineering.

The Mayfield application was filed consistent with the location of the trust water boundary so as to be outside the trust water area. The application does not seek to appropriate trust water. As IDWR proceeds with processing of the application, Mayfield Townsite LLC believes it is improper to condition its permit so as to ignore the trust water boundary. Regardless of the direction of groundwater flow, the trust water boundary is established and should be honored by IDWR until changed. It would cause irreparable harm to Mayfield to

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condition its permit such that delivery of water to homes could potentially be cut off or disrupted by a condition that focuses on groundwater flow direction yet ignores the trust water boundary. Mayfield has spent millions of dollars on its project. Because of the significant harm arising from such a condition, Mayfield would have no choice but to challenge any such condition as well as recover its damages.

Sincerely,

MOORE SMITH BUXTON & TURCKE, CHARTERED



Bruce M. Smith

BMS: ntt

cc: Client

administration of rights to the use of the waters of the Snake River or its tributaries downstream from Milner Dam, no portion of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered" (ERO Report, page 22). However, this sentence does not appear to preclude the assessment of flows not associated with Idaho Power operations in an evaluation of water supply in the Milner to Swan Falls reach of the Snake River, especially of flows in excess of generating capacity (8,400 cfs) at Swan Falls Dam.

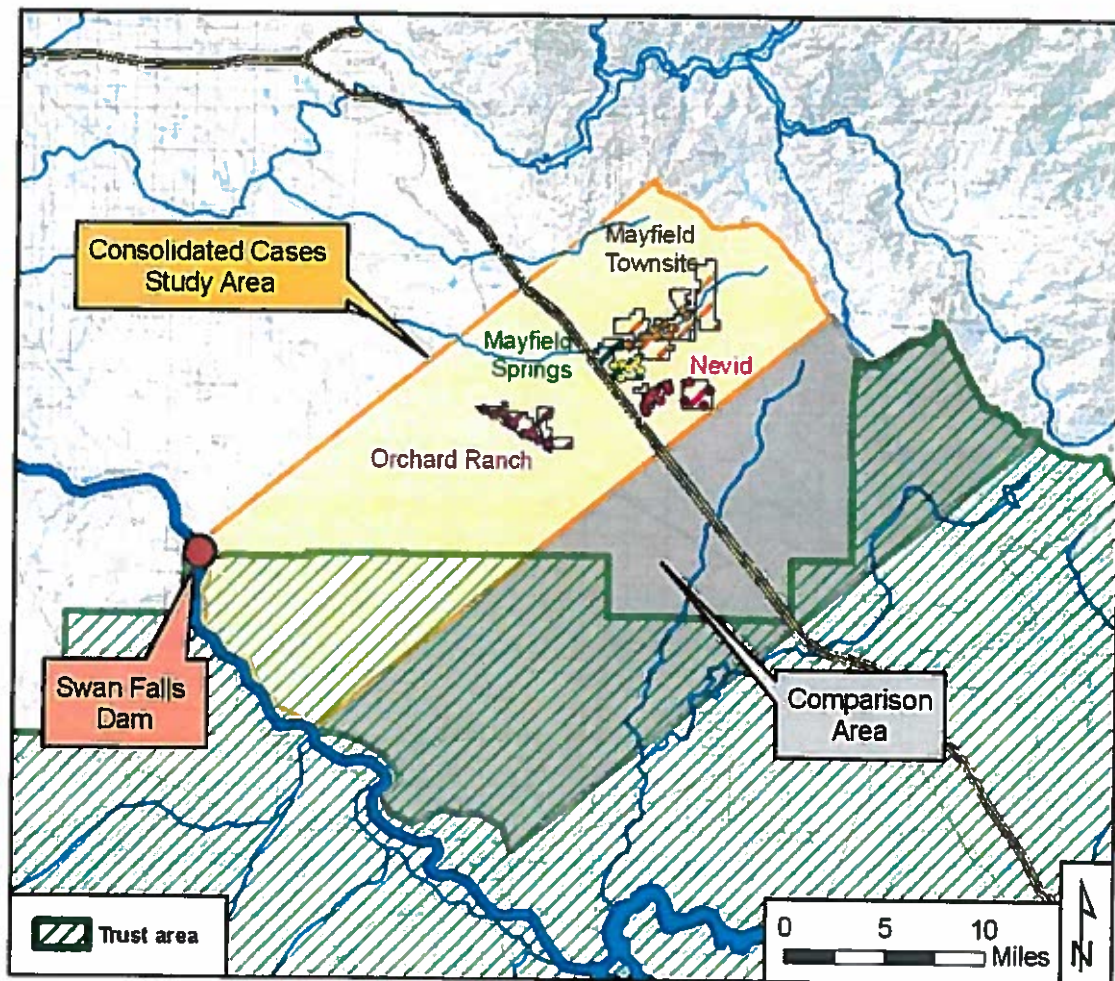


Figure 11. Trust area and places-of-use for consolidated applications.

16. ERO presents graphs showing a downward trend in Snake River flows based on average flows between November-March, April-October, and July 1-July 10 (ERO Report, Figures 3, 4, and 5).